

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MERCK SHARP & DOHME CORP.,

Plaintiff,

v.

MYLAN PHARMACEUTICALS INC., and
MYLAN INC.,

Defendants.

C.A. No. 19-315-RGA

STIPULATION AND ~~PROPOSED~~ ORDER

WHEREAS on February 13, 2019, Plaintiff Merck Sharp & Dohme Corp. (“Merck”) filed a complaint (D.I. 1) against Defendants Mylan Pharmaceuticals Inc. (“MPI”) and Mylan Inc. (Merck, MPI, and Mylan Inc. collectively referred to hereinafter as the “Parties”) alleging infringement of U.S. Patent No. 7,326,708 (“the ’708 patent”) and U.S. Patent No. 8,414,921 (“the ’921 patent”);

WHEREAS on February 13, 2019, and February 19, 2019, Merck filed complaints in related actions C.A. No. 19-310-RGA, C.A. No. 19-311-RGA, C.A. No. 19-312-RGA, C.A. No. 19-313-RGA, C.A. No. 19-314-RGA, C.A. No. 19-316-RGA, C.A. No. 19-317-RGA, C.A. No. 19-318-RGA, C.A. No. 19-319-RGA, C.A. No. 19-320-RGA, C.A. No. 19-321-RGA, and C.A. No. 19-347-RGA alleging infringement of the ’708 patent and the ’921 patent;

WHEREAS Mylan moved to dismiss Merck’s complaint for improper venue on March 21, 2019 (D.I. 10);

WHEREAS the Parties agree that venue is proper with respect to MPI in the Northern District of West Virginia, but disagree as to whether venue is proper with respect to MPI in the District of Delaware;

WHEREAS on May 2, 2019, Plaintiff filed a complaint against MPI and Mylan Inc. in the Northern District of West Virginia having Civil Action Number 1:19-cv-00101;

WHEREAS the Parties desire to save judicial resources and resources of the Parties,

IT IS HEREBY STIPULATED AND AGREED, by and between the Parties hereto, subject to the approval of the Court, as follows:

1. Plaintiff hereby dismisses without prejudice the complaint against MPI and Mylan Inc. pursuant to Rule 41(a)(1)(A)(ii); and
2. The terms of this stipulation are made without prejudice to the respective positions of Merck, MPI, and Mylan Inc. as to whether venue in the District of Delaware is proper with respect to MPI.

Dated: May 10, 2019

Respectfully submitted,

MCCARTER & ENGLISH, LLP

MORRIS JAMES LLP

/s/ Daniel M. Silver

Michael P. Kelly (#2295)
Daniel M. Silver (#4758)
Alexandra M. Joyce (#6423)
Renaissance Centre
405 N. King Street, 8th Floor
Wilmington, DE 19801
T: (302) 984-6300
mkelly@mccarter.com
dsilver@mccarter.com
ajoyce@mccarter.com

/s/ Kenneth L. Dorsney

Kenneth L. Dorsney (#3726)
500 Delaware Avenue, Suite 1500
Wilmington, DE 19801
T: (302) 888-6800
kdorsney@morrisjames.com

Of Counsel:

Deepro R. Mukerjee
Lance Soderstrom
KATTEN MUCHIN ROSENMAN LLP
575 Madison Avenue
New York, NY 10022
(212) 940-8800
Deepro.mukerjee@kattenlaw.com
Lance.soderstrom@kattenlaw.com

Of Counsel:

Bruce R. Genderson
Jessamyn S. Berniker
Stanley E. Fisher
Shaun P. Mahaffy
Anthony H. Sheh
Jingyuan Luo*
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, DC 20005
T: (202) 434-5000
F: (202) 434-5029
bgenderson@wc.com
jberniker@wc.com
sfisher@wc.com
smahaffy@wc.com
asheh@wc.com
jluo@wc.com

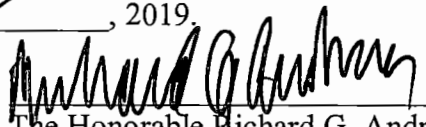
Jitendra Malik
Alissa M. Pacchioli
Joseph M. Janusz
KATTEN MUCHIN ROSENMAN LLP
550 South Tyron Street, Suite 2900
Charlotte, NC 28202
Jitty.malik@kattenlaw.com
Alissa.pacchiolo@kattenlaw.com
Joe.janusz@kattenlaw.com

*Attorneys for Defendants
Mylan Pharmaceuticals, Inc. and
Mylan Inc.*

*Attorneys for Plaintiff
Merck Sharp & Dohme Corp.*

*Admitted only in California. Practice supervised by D.C. Bar members pursuant to D.C. Court of Appeals Rule 49(c)(8).

IT IS SO ORDERED this 10 day of May, 2019.


The Honorable Richard G. Andrews
United States District Judge